

## SENATE BILL NO. 490

INTRODUCED BY R. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF CLASS EIGHT BUSINESS EQUIPMENT AND REVISING RELATED LAWS; INCREASING THE BUSINESS EQUIPMENT TAX EXEMPTION TO THE FIRST ~~\$5 MILLION~~ \$20,000 OR LESS AND ONE-THIRD OF THE MARKET VALUE BETWEEN \$20,000 AND \$5 MILLION OF MARKET VALUE OF PROPERTY; PROHIBITING CLASS EIGHT PROPERTY FROM BEING SEPARATED INTO DIFFERENT BUSINESS ENTITIES FOR DETERMINING WHETHER THE ~~\$5 MILLION~~ EXEMPTION IS EXCEEDED; PROVIDING FOR THE ALLOCATION OF EXEMPT CLASS EIGHT PROPERTY BY LOCATION; PROVIDING FOR REIMBURSEMENTS TO LOCAL GOVERNMENTS AND TAX INCREMENT FINANCING DISTRICTS, TO SCHOOL DISTRICTS THROUGH THE BLOCK GRANT PROGRAM, AND TO THE MONTANA UNIVERSITY SYSTEM THROUGH SUPPORT OF PUBLIC EDUCATION INSTITUTIONS FOR THE LOSS OF CLASS EIGHT PROPERTY TAX REVENUE; PROVIDING THAT THE REIMBURSEMENTS ARE SUBJECT TO AN APPROPRIATION; REVISING PROVISIONS RELATED TO SCHOOL DISTRICT BLOCK GRANTS; REPEALING AN OBSOLETE BUSINESS EQUIPMENT REIMBURSEMENT TO LOCAL GOVERNMENT TAXING JURISDICTIONS; PROVIDING THAT THE INCREASE IN THE EXEMPTION AMOUNT OF CLASS EIGHT PROPERTY DOES NOT OCCUR IF CERTAIN LEGISLATION IS NOT ENACTED; AMENDING SECTIONS 7-1-2111, 15-6-138, 15-6-219, 15-8-301, 15-10-420, 20-9-406, 20-9-407, AND 20-9-630, MCA; REPEALING SECTION 15-1-112, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Reimbursement for class eight rate reduction and exemption -- distribution.** (1) For the exemption amount in 15-6-138, the department shall, by June 1, 2010, for calendar year 2010 estimate for each local government, as defined in 15-1-121(4), each school district, each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108 the difference between property tax collections under 15-6-138 and the property tax revenue that would have been collected under 15-6-138 as that section read on January 1, 2009. The difference is the reimbursable amount for each local government, each school district, each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108.

1 (2) (a) The department shall, subject to an appropriation, distribute the reimbursement to local  
2 governments at the same time as the entitlement share payments under 15-1-121. Local government  
3 reimbursements must be increased in each succeeding fiscal year by using the growth rate determined under  
4 15-1-121(3).

5 (b) For fiscal year 2010, the department shall determine from the amount calculated under subsection  
6 (1) the amount that is attributable to personal property taxes that are not a lien on real property for each local  
7 government. By June 15, 2010, the department shall, subject to an appropriation, distribute the amount  
8 determined under this subsection (2)(b) to local governments.

9 (c) The market value of class eight property exempted under 15-6-138 must be subtracted from the fiscal  
10 year 2010 total market value of class eight property when the department computes the value of newly taxable  
11 property for fiscal year 2010 under 15-10-420.

12 (3) (a) The office of public instruction shall, subject to an appropriation, distribute the reimbursement to  
13 school districts with the block grants pursuant to 20-9-630(2). School district reimbursements for subsequent  
14 years are made, subject to an appropriation, pursuant to 20-9-630.

15 (b) For fiscal year 2010, the department shall determine from the amount calculated under subsection  
16 (1) the amount that is attributable to personal property taxes that are not a lien on real property for each school  
17 district. By June 15, 2010, the office of public instruction shall, subject to an appropriation, distribute the entire  
18 amount determined under this subsection (3)(b) in the same manner as the block grant is distributed by fund  
19 under 20-9-630.

20 (4) (a) For each fiscal year beginning after June 30, 2010, the amount determined under subsection (1)  
21 for each tax increment financing district must, subject to an appropriation, be made at the same time as the  
22 reimbursement amount for the tax increment financing district as provided in 15-1-121(6) if the tax increment  
23 financing district is still in existence. If a tax increment financing district that is entitled to a reimbursement under  
24 this section is not listed under 15-1-121, the reimbursement must be made to that tax increment financing district  
25 at the same time as other districts.

26 (b) For fiscal year 2010, the department shall determine from the amount calculated under subsection  
27 (1) the amount that is attributable to personal property taxes that are not a lien on real property for each tax  
28 increment financing district. By June 15, 2010, the department shall, subject to an appropriation, distribute the  
29 amount determined under this subsection (4)(b) to each tax increment financing district at the same time as  
30 provided in 15-1-121(6)(b) and to any other tax increment financing district that is entitled to a reimbursement

1 under this section.

2 (5) (a) For each fiscal year beginning after June 30, 2010, the amount determined under subsection (1)  
3 for the 6-mill university levy must, subject to an appropriation, be added to the support of public education  
4 institutions as provided in 15-10-108.

5 (b) For fiscal year 2010, the department shall determine from the amount calculated under subsection  
6 (1) the amount that is attributable to personal property taxes that are not a lien on real property for the 6-mill  
7 university levy. By June 15, 2010, the department shall, subject to an appropriation, distribute the amount  
8 determined under this subsection (5)(b) for the support of public education institutions as provided in 15-10-108.

9  
10 **Section 2.** Section 7-1-2111, MCA, is amended to read:

11 **"7-1-2111. Classification of counties.** (1) For the purpose of regulating the compensation and salaries  
12 of all county officers not otherwise provided for and for fixing the penalties of officers' bonds, the counties of this  
13 state must be classified according to the taxable valuation of the property in the counties upon which the tax levy  
14 is made as follows:

- 15 (a) first class--all counties having a taxable valuation of \$50 million or more;  
16 (b) second class--all counties having a taxable valuation of \$30 million or more and less than \$50 million;  
17 (c) third class--all counties having a taxable valuation of \$20 million or more and less than \$30 million;  
18 (d) fourth class--all counties having a taxable valuation of \$15 million or more and less than \$20 million;  
19 (e) fifth class--all counties having a taxable valuation of \$10 million or more and less than \$15 million;  
20 (f) sixth class--all counties having a taxable valuation of \$5 million or more and less than \$10 million;  
21 (g) seventh class--all counties having a taxable valuation of less than \$5 million.

22 (2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county  
23 as of the time of determination plus:

24 (a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and  
25 trucks having a rated capacity of three-quarters of a ton or less;

26 (b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and  
27 trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;

28 (c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks  
29 having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

30 (d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole

trailers, and semitrailers with a declared weight of less than 26,000 pounds;

(e) the value provided by the department of revenue under 15-36-332(7);

(f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications property under 15-6-141;

(g) 50% of the taxable value in the county on December 31, 1999, attributable to electrical generation property under 15-6-141;

(h) the value provided by the department of revenue under 15-24-3001;

(i) 6% of the taxable value of the county on January 1 of each tax year;

(j) 45% of the contract sales price of the gross proceeds of coal in the county as provided in 15-23-703 and as reported under 15-23-702; ~~and~~

(k) 33 1/3% of the value of bentonite produced during the previous year as provided in 15-39-110(14) and as reported under 15-39-101; and

(l) the taxable value of personal property reported under 15-6-219(2)(d)."

**Section 3.** Section 15-6-138, MCA, is amended to read:

**"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-219, and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-220, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-101;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, the following definitions apply:

(a) "coal "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

(3) Class eight property is taxed at 3% of its market value.

(4) (a) The first \$5 million \$20,000 or less of market value of class eight property of a person owned by an individual or business entity that owns an aggregate of \$20,000 or less in market value of class eight property is exempt from taxation [AND 33 1/3% OF MARKET VALUE BETWEEN \$20,000 AND \$5 MILLION IS EXEMPT FROM TAXATION].

(b) (i) The department shall, by rule, establish reporting requirements that will not allow multiple business identities to be formed to obtain multiple exemption thresholds for what are functionally single businesses. The rules may require individual and taxpayer identification numbers for pass-through entities, as defined in 15-30-101, and their owners, partners, and officers to allow the department to track exemptions through the entities.

(ii) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement, but the statement must show the name of the person or officer

1 who made the statement in which the property is included.

2 (iii) The fact that a statement is not required or that a person has not made a statement, under oath or  
3 otherwise, does not relieve the person's property from taxation."

4  
5 **Section 4.** Section 15-6-219, MCA, is amended to read:

6 **"15-6-219. Personal and other property exemptions -- allocation of certain exemptions.** (1) The  
7 following categories of property are exempt from taxation:

8 ~~(1)~~(a) harness, saddlery, and other tack equipment;

9 ~~(2)~~(b) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily  
10 hand-held and that are used to:

11 ~~(a)~~(i) construct, repair, and maintain improvements to real property; or

12 ~~(b)~~(ii) repair and maintain machinery, equipment, appliances, or other personal property;

13 ~~(3)~~(c) all household goods and furniture, including but not limited to clocks, musical instruments, sewing  
14 machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes  
15 or for furnishing or equipping the family residence;

16 ~~(4)~~(d) a bicycle, as defined in 61-8-102, used by the owner for personal transportation purposes;

17 ~~(5)~~(e) items of personal property intended for rent or lease in the ordinary course of business if each item  
18 of personal property satisfies all of the following:

19 ~~(a)~~(i) the acquired cost of the personal property is less than \$15,000;

20 ~~(b)~~(ii) the personal property is owned by a business whose primary business income is from rental or  
21 lease of personal property to individuals and no one customer of the business accounts for more than 10% of the  
22 total rentals or leases during a calendar year; and

23 ~~(c)~~(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

24 ~~(f) the first \$5 million or less of market value of class eight property that is exempt under 15-6-138(4) and~~  
25 ~~is not otherwise exempt from property taxation owned by an individual or business entity that is identified by a~~  
26 ~~unique taxpayer identification number;~~

27 ~~(6)~~(g) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,  
28 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and  
29 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that  
30 are directly used for space vehicle design, manufacture, launch, repair, and maintenance; and

1       ~~(7)~~(h) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in  
2 33-25-105.

3       (2) (a) For determining the amount of a taxpayer's class eight property that is subject to taxation, the  
4 department shall allocate the market value of class eight business equipment that is exempt from taxation under  
5 subsection (1)(f) as provided in this subsection (2).

6       (b) If the class eight business equipment of the taxpayer is used in a single location, the market value  
7 of the exempt property is allocated to that location.

8       (c) If the class eight business equipment of the taxpayer is used in more than one location, the market  
9 value of the exempt property must be allocated to each location in the ratio that the total market value of class  
10 eight property at that location bears to the total market value of class eight property of the taxpayer at all  
11 locations.

12       (d) (i) The market value allocations determined under subsections (2)(b) and (2)(c) must be converted  
13 to taxable value using the tax rate under 15-6-138(3) and must be reported to counties for the purpose of  
14 determining county classification under 7-1-2111 and to school districts for the purposes of determining debt limits  
15 under 20-9-406.

16       (ii) The market value allocations determined under subsections (2)(b) and (2)(c) must be treated as  
17 assessed value under 15-8-111 for the purposes of debt limits and other bonding provisions under 2-9-211,  
18 7-3-1321, 7-7-107, 7-7-2101, 7-7-2301, 7-7-4201, 7-13-237, 7-13-309, 7-13-4103, 7-14-236, 7-14-2520,  
19 7-14-2524, 7-16-2327, 7-16-2433, 7-16-4104, 7-31-107, 7-33-2109, 7-33-2404, 7-34-2131, 19-18-503, 39-71-403,  
20 and 85-9-406 and as otherwise provided by law. The department shall report the assessed values to the  
21 appropriate entities affected by this subsection (2)(d)(ii)."

22  
23       **Section 5.** Section 15-8-301, MCA, is amended to read:

24       **"15-8-301. Statement -- what to contain -- rules.** (1) The department may require from a person a  
25 statement under oath setting forth specifically all the real and personal property owned by, in possession of, or  
26 under the control of the person at midnight on January 1. The statement must be in writing, showing separately:

27       (a) all property belonging to, claimed by, or in the possession or under the control or management of the  
28 person;

29       (b) all property belonging to, claimed by, or in the possession or under the control or management of any  
30 firm of which the person is a member;

(c) all property belonging to, claimed by, or in the possession or under the control or management of any corporation of which the person is president, secretary, cashier, or managing agent;

(d) the county in which the property is situated or in which the property is liable to taxation and, if liable to taxation in the county in which the statement is made, also the city, town, school district, road district, or other revenue districts in which the property is situated;

(e) an exact description of all lands, improvements, and personal property;

(f) all depots, shops, stations, buildings, and other structures erected on the space covered by the right-of-way and all other property owned by any person owning or operating any railroad within the county.

(2) The department shall notify the taxpayer in the statement for reporting personal property owned by a business or used in a business that the statement is for reporting business equipment and other business personal property described in Title 15, chapter 6, part 1. ~~A~~ Except as provided in subsection (3), a taxpayer owning exempt business equipment is subject to limited reporting requirements; ~~however~~ However, all new businesses shall report their class eight property, as described in 15-6-138, so that the department can determine the market value of the property. The department shall by rule develop reporting requirements for business equipment to limit the annual reporting of exempt business equipment to the extent feasible.

(3) In the reporting of exempt business equipment under 15-6-219(1)(f), the department shall, by rule, establish reporting requirements that will prevent the use of multiple business identities to obtain multiple exemptions for what are functionally single businesses. The rules must require a unique taxpayer identification number for each individual and business entity to allow the department to track exemptions of all individuals and business entities. The department shall use the information obtained under this subsection to allocate the market value of exempt business equipment as provided in 15-6-219(2).

~~(3)(4)~~ (4) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of the person or officer who made the statement in which the property is included.

~~(4)(5)~~ (5) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation."

**Section 6.** Section 15-10-420, MCA, is amended to read:

**"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a



1 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount  
2 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3  
3 years. The maximum number of mills that a governmental entity may impose is established by calculating the  
4 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the  
5 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus  
6 one-half of the average rate of inflation for the prior 3 years.

7 (b) A governmental entity that does not impose the maximum number of mills authorized under  
8 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between  
9 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority  
10 carried forward may be imposed in a subsequent tax year.

11 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of  
12 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using  
13 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

14 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional  
15 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly  
16 taxable property.

17 (3) (a) For purposes of this section, newly taxable property includes:

18 (i) annexation of real property and improvements into a taxing unit;

19 (ii) construction, expansion, or remodeling of improvements;

20 (iii) transfer of property into a taxing unit;

21 (iv) subdivision of real property; and

22 (v) transfer of property from tax-exempt to taxable status.

23 (b) Newly taxable property does not include an increase in value that arises because of an increase in  
24 the incremental value within a tax increment financing district.

25 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the  
26 release of taxable value from the incremental taxable value of a tax increment financing district because of:

27 (i) a change in the boundary of a tax increment financing district;

28 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

29 (iii) the termination of a tax increment financing district.

30 (b) If a tax increment financing district terminates prior to the certification of taxable values as required

1 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment  
2 financing district terminates. If a tax increment financing district terminates after the certification of taxable values  
3 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

4 (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real  
5 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified  
6 agricultural land as described in 15-6-133(1)(c).

7 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

8 (a) school district levies established in Title 20; or

9 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits  
10 excluded under 2-9-212 or 2-18-703.

11 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received  
12 under 15-6-131 and 15-6-132.

13 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

14 (a) may increase the number of mills to account for a decrease in reimbursements;

15 (b) may not increase the number of mills to account for a loss of tax base because of legislative action  
16 when the loss of revenue is reimbursed as provided by law.

17 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes  
18 of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated  
19 by the department may not exceed the mill levy limits established in those sections. The mill calculation must be  
20 established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the  
21 calculation must be rounded up to the nearest whole mill.

22 (9) (a) The provisions of subsection (1) do not prevent or restrict:

23 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

24 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

25 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; or

26 (iv) a levy for the support of a study commission under 7-3-184.

27 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes  
28 actually assessed in a subsequent year.

29 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,  
30 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport

1 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating  
2 funds by a county or municipality during that time.

3 (11) The department may adopt rules to implement this section. The rules may include a method for  
4 calculating the percentage of change in valuation for purposes of determining the elimination of property, new  
5 improvements, or newly taxable property in a governmental unit."

6  
7 **Section 7.** Section 20-9-406, MCA, is amended to read:

8 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**  
9 **payment.** (1) (a) Except as provided in subsection (1)(d), the maximum amount for which an elementary district  
10 or a high school district may become indebted by the issuance of general obligation bonds, including all  
11 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,  
12 outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as  
13 general obligations of the district, is 50% of:

14 (i) the taxable value of the property subject to taxation, as ascertained by the last assessment for state,  
15 county, and school taxes previous to the incurring of the indebtedness; and

16 (ii) the taxable value of personal property reported under 15-6-219.

17 (b) Except as provided in subsection (1)(d), the maximum amount for which a K-12 school district, as  
18 formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all  
19 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,  
20 outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as  
21 general obligations of the district, is up to 100% of:

22 (i) the taxable value of the property subject to taxation, as ascertained by the last assessment for state,  
23 county, and school taxes previous to the incurring of the indebtedness; and

24 (ii) the taxable value of personal property reported under 15-6-219.

25 (c) The total indebtedness of the high school district with an attached elementary district is limited to the  
26 sum of 50% of the taxable value of the property for elementary school program purposes and 50% of the taxable  
27 value of the property for high school program purposes, adjusted as provided in this section.

28 (d) (i) The maximum amount for which an elementary district or a high school district with a district mill  
29 value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per  
30 elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation

bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 50% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times the high school ANB of the district. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection (1)(d), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to general obligation bonds issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess of the amount are void, except as provided in this section.

(3) The maximum amount of impact aid revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual federal impact aid basic support payments for the 5 years immediately preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support payments of the school district for the current year.

(4) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(5) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the

1 refunding bond issue is decreased accordingly.

2 (6) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue  
3 received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education  
4 under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

5  
6 **Section 8.** Section 20-9-407, MCA, is amended to read:

7 **"20-9-407. Industrial facility agreement for bond issue in excess of maximum.** (1) In a school district  
8 within which a new major industrial facility that seeks to qualify for taxation as class five property under 15-6-135  
9 is being constructed or is about to be constructed, the school district may require, as a precondition of the new  
10 major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter  
11 into an agreement with the school district concerning the issuing of bonds in excess of the 50% limitation, as  
12 adjusted, prescribed in 20-9-406. Under an agreement, the school district may, with the approval of the voters,  
13 issue bonds that exceed the limitation prescribed in this section by a maximum of 50% of the estimated taxable  
14 value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable  
15 value of the property of the new major industrial facility subject to taxation must be computed by the department  
16 of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the  
17 department's statement of estimated taxable value must be printed on each ballot used to vote on a bond issue  
18 proposed under this section.

19 (2) Pursuant to the agreement between the new major industrial facility and the school district and as  
20 a precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in  
21 addition to the taxes imposed by the school district on property owners generally, as much of the principal and  
22 interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the  
23 limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the  
24 indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major  
25 industrial facility is entitled, after all the current indebtedness of the school district has been paid, to a tax credit  
26 over a period of no more than 20 years. The credit must as a total amount be equal to the amount that the facility  
27 paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within  
28 the district.

29 (3) A major industrial facility is a facility subject to the taxing power of the school district, whose  
30 construction or operation will increase the population of the district, imposing a significant burden upon the

resources of the district and requiring construction of new school facilities. A significant burden is an increase in ANB of at least 20% in a single year."

**Section 9.** Section 20-9-630, MCA, is amended to read:

**"20-9-630. School district block grants.** (1) (a) The office of public instruction shall provide a block grant to each school district based on:

(i) the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999; and

(ii) any reimbursement to be made to a school district pursuant to subsection (2).

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.

~~(c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.~~

~~(2) If the fiscal year 2003 appropriation provided in section 248(1), Chapter 574, Laws of 2001, is insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.~~

(2) If the legislature enacts legislation to provide for reimbursements to be distributed as provided in this section, the office of public instruction shall determine the reimbursement amount as provided in the legislation and add the appropriate amount to block grant distributions under this section. The total of reimbursement distributions made pursuant to this subsection in a fiscal year must be added to all other distributions to the school district in the fiscal year to determine the distribution for the subsequent fiscal year. The block grant percentage increases in subsection (4) do not apply to reimbursements made under this subsection for the fiscal year of the first reimbursement but do apply to the block grant amounts in subsequent fiscal years that incorporate reimbursements added in previous fiscal years. For the purpose of this subsection, the fiscal year of the first

1 reimbursement does not include the fiscal year in which the reimbursement under [section 1(3)(b)] is made.

2 (3) Each year, 70% of each district's block grant must be distributed in November and 30% of each  
3 district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

4 (4) (a) The block grant for the district general fund is equal to the ~~average~~ amount received in fiscal years  
5 ~~2002 and 2003~~ year 2010, except for the amount received under [section 1(3)(b)], by the district general fund from  
6 the block grants provided for in ~~subsection~~ subsections (1) and (2). ~~The Except as provided in subsection (2), the~~  
7 block grant must be increased by 0.76% in fiscal year ~~2004~~ 2011 and in each succeeding fiscal year.

8 (b) The block grant for the district transportation fund is equal to ~~one-half of the average~~ amount received  
9 in fiscal years ~~2002 and 2003~~ year 2010, except for the amount received under [section 1(3)(b)], by the district  
10 transportation fund from the block grants provided for in ~~subsection~~ subsections (1) and (2). ~~The Except as~~  
11 ~~provided in subsection (2), the~~ block grant must be increased by 0.76% in fiscal year ~~2004~~ 2011 and in each  
12 succeeding fiscal year.

13 (c) (i) The combined fund block grant is equal to the ~~average~~ amount received in fiscal years ~~2002 and~~  
14 ~~2003~~ year 2010, except for the amount received under [section 1(3)(b)], by the district tuition, bus depreciation  
15 reserve, building reserve, nonoperating, and adult education funds from the block grants provided for in  
16 ~~subsection~~ subsections (1) and (2). ~~The Except as provided in subsection (2), the~~ block grant must be increased  
17 by 0.76% in fiscal year ~~2004~~ 2011 and in each succeeding fiscal year.

18 (ii) The school district may deposit the combined fund block grant into any budgeted fund of the district."  
19

20 NEW SECTION. Section 10. Repealer. Section 15-1-112, MCA, is repealed.  
21

22 NEW SECTION. Section 11. Saving clause. [This act] does not affect rights and duties that matured,  
23 penalties that were incurred, or proceedings that were begun before [the effective date of this act].  
24

25 NEW SECTION. Section 12. Codification instruction. [Section 1] is intended to be codified as an  
26 integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 1].  
27

28 NEW SECTION. Section 13. Contingent voidness. ~~If legislation is not passed and approved during~~  
29 ~~the 61st legislative session that provides long-term and equitable reimbursement by statutory appropriations or~~  
30 ~~by other appropriate means to local governments, school districts, tax increment financing districts, and the 6-mill~~

1 ~~university levy as provided in [section 1], [this act] is void. IF HOUSE BILL NO. 2 IS PASSED AND APPROVED AND DOES~~  
2 ~~NOT CONTAIN A LINE ITEM APPROPRIATION DESIGNATING FUNDING FOR THE REIMBURSEMENT OF THE EXEMPTION~~  
3 ~~PROVIDED IN THE BRACKETED LANGUAGE IN [SECTION 3] AMENDING 15-6-138(4), THEN THE BRACKETED LANGUAGE IS~~  
4 ~~VOID.~~

5  
6 **NEW SECTION. Section 14. Effective date.** [This act] is effective January 1, 2010.

7  
8 **NEW SECTION. Section 15. Applicability.** [This act] applies to property tax years beginning after  
9 December 31, 2010.

10 - END -